

Applicant hereby elects to prosecute Group I, namely, claims 1-34 and 71 and respectfully traverses the restriction requirement between the claims of Groups I and II.

As a threshold matter, the Restriction Requirement indicates that the claims of Group I are drawn to a process for producing a biological product with a microorganism under only aerobic conditions. Applicant submits that this characterization is incorrect, as the claims of Group I are drawn to a process that utilizes both aerobic and anaerobic respiration.

Groups I and II

The Examiner has required restriction between the claims of Group I (claims 1-34 and 71) and Group II (claims 35-70).

The Patent Office bears the burden of establishing that searching and examining Groups I and II in a single application presents a serious burden on the Office. It has been specifically alleged that Groups I and II have acquired a separate status in the art, and that the search for each of Groups I and II is not co-extensive. The Examiner has not provided any reasons or evidence to substantiate the conclusions that Groups I and II have attained a separate status in the art or that there would be different fields of search. In fact, Applicant submits that a search for prior art references relating to anaerobic respiration would also uncover any references, if in existence, disclosing subject matter similar to that claimed in claims 1-34 and 71. For these reasons, Applicant, therefore, respectfully submits that there would be no serious burden on the Patent Office to search and examine claims 1-71 in a single application.

Conclusion

To summarize, Applicant hereby elects to prosecute Group I, claims 1-34 and 71, in the present application. In light of the traversal of the Examiner's restriction requirement between Groups I and II, Applicant respectfully requests the withdrawal of the restriction requirement, and requests that he be permitted to prosecute claims 1-71 in the present application.

Should the Examiner have any questions, Applicant's undersigned attorney would welcome a telephone call.

Respectfully submitted,

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